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| 09/753,537  | 01/02/2001  | David L. Multer      | FUS1-04105          | 1714             |
| 7590  | 05/21/2012  |                      | EXAMINER            |                  |
| Thomas B. Haverstock<br>162 North Wolfe Road<br>Sunnyvale, CA 94086 |             |                      | ABEL JALIL, NEVEEN  |                  |
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UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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*Ex parte* DAVID L. MULTER, ROBERT E. GARNER,  
LEIGHTON A. RIDGARD,  
LIAM J. STANNARD, and DONALD W. CASH

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Appeal 2009-010293  
Application 09/753,537  
Technology Center 2100

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Before LANCE LEONARD BARRY, JAMES R. HUGHES, and  
GREGORY J. GONSALVES, *Administrative Patent Judges*.

GONSALVES, *Administrative Patent Judge*

DECISION ON APPEAL

## STATEMENT OF THE CASE

Appellants appeal under 35 U.S.C. § 134(a) from the rejection of claims 80-89 and 109-116. (App. Br. 2.) Claims 1-79 and 90-108 were canceled. (*Id.*) We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.

### *The Invention*

Exemplary claim 80 follows:

80. A synchronizer system including a first synchronizer provided on a network coupled processing device comprising:

computer code, implemented on a processing device, for comparing at least one file on the device and a record of the file on the device, and providing binary differencing data between the file and the record of the file; and

a transaction generator, implemented on a processing device, providing at least one binary difference transaction including said binary differencing data and at least one data field type to an output for forwarding to a network coupled storage server, the server using the binary differencing data to synchronize at least one other network coupled processing device.

The Examiner rejected claims 80-87, 90, and 109-116 under 35 U.S.C. § 102 as being anticipated by Zollinger (U.S. Patent No. 6,321,236 B1, Nov. 20, 2001, filed Aug. 3, 1999). (Ans. 3-8.)

The Examiner rejected claim 88 under 35 U.S.C. § 103(a) as being unpatentable over Zollinger in view of Lappington (U.S. Patent No. 5,519,433, May 21, 1996). (Ans. 8-9.)

The Examiner rejected claim 89 under 35 U.S.C. § 103(a) as being unpatentable over Zollinger in view of Morris (U.S. Patent No. 5,574,906, Nov. 12, 1996). (Ans. 9.)

## ISSUE

Appellants' responses to the Examiner's positions present the following issue:

Does Zollinger disclose "providing at least one binary difference transaction including said binary differencing data and at least one data field type to an output," as recited in independent claim 80, and as similarly recited in independent claims 109 and 116?

## ANALYSIS

We disagree with Appellants' conclusion regarding the Examiner's rejections of the claims on appeal. We adopt as our own (1) the findings and reasons set forth by the Examiner in the action from which this appeal is taken and (2) the reasons set forth by the Examiner in the Examiner's Answer (Ans. 3-11) in response to the Appellants' Appeal Brief. We concur with the conclusion reached by the Examiner. We highlight and address specific findings and arguments below.

Appellants contend that claims 80, 109, and 116 are not anticipated because Zollinger does not disclose "providing at least one binary difference transaction including said binary differencing data and at least one data field type to an output . . . ." (App. Br. 7.) Zollinger, however, discloses that "updates isolate only the information that has changed over time so that a minimum amount of data may be sent to a client." (Zollinger 3:45-46.) In other words Zollinger discloses binary differencing data as updates of

information that has changed. (*See* Ans. 4 and 10-11.) Zollinger also discloses data field types such as a change type indicator specifying whether the updates are modifications to existing data, insertion of new data, or deletion of data. (*Id.* at 10:45-65.) Accordingly, Zollinger does disclose the claim element at issue and therefore, we will sustain the Examiner's rejections of independent claims 80, 109, and 116.

Appellants also argue that dependent claim 84 is not anticipated because it recites a second synchronizer and “[t]here is nothing in the cited section of Zollinger that teaches a second synchronizer.” (App. Br. 10.) As explained by the Examiner, there must be synchronizers on both the server and the clients for the differences detected by the server to be sent to the clients. (Ans. 5.) Accordingly, we will also sustain the Examiner's rejection of dependent claim 84.

We will also sustain the Examiner's rejections of the remaining claims on appeal because Appellants did not set forth any separate patentability arguments for any of them. (*See* App. Br. 6-12.)

## DECISION

We affirm the Examiner's decision rejecting claims 80-89 and 109-116.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED

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